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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/501,124	02/09/2000	Gabriela Brase	00P7456US	3427

7590

07/18/2002

Siemens Corporation  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER

GURLEY, LYNNE ANN

ART UNIT PAPER NUMBER

2812

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/501,124

Applicant(s)

Brase

Examiner

Lynne Gurley

Art Unit

2812



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on May 17, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above, claim(s) 24-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2 6) ☐ Other: \_\_\_\_\_

Art Unit: 2812

## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election without traverse of claims 1-23 in Paper No. 5 is acknowledged.

### ***Specification***

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35

Art Unit: 2812

U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 13, 15, 18-19 and 21-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Liu et al. (US 6,326,300, dated 12/4/2001, filed 9/21/1998).

Liu shows the method as claimed, in figures 1-8 and corresponding text, with conductive regions 11 (column 6, lines 64-67), interlevel dielectric 12, etch stop 14, via patterning (fig. 2), trench dielectric 22, etching of the trench and vias (fig 6) and conductive material 30. Note that it is considered inherent that if a spin-on-polymer were used, a spin-on technique followed by a curing process would be in order.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

Art Unit: 2812

3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. Claims 14, 16-17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (US 6,326,300, dated 12/4/2001, filed 9/21/1998) in view of Jang (US 6,265,319, dated 7/24/2001, filed 9/1/1999).

Liu shows the method substantially as claimed and as described in the preceding paragraphs. Additionally, Liu teaches that the material of the interlevel dielectric and trench dielectric may be the same or different; that a spin-on polymer may be used; and that the etch stop layer is between 100 nm and 250 nm thick (column 7, lines 42-44).

Liu lacks anticipation only in not teaching that the etch stop may be a polymer with a low dielectric constant (column 1, lines 40-44), even though Liu does teach that the etch stop may be made of any material which resists etching during the interlevel dielectric and trench dielectric etching. Liu also lacks anticipation in not teaching that: 1) the polymer may be polyorylene-ether (FLARE) or polybenzoxazole; 2) a cap layer is formed; 3) and a hard mask is used.

Jang teaches that a polymer such as FLARE may be used as an etch stop layer between two low dielectric constant layers in a dual damascene technique.

It would have been obvious to one of ordinary skill in the art to have used FLARE for the etch stop layer in the method of Liu with the motivation that FLARE would possess suitable etch resistant properties while etching the appropriate dielectric layers.

Art Unit: 2812

It would have been obvious to one of ordinary skill in the art to have formed a cap layer and a hard mask in order to improve oxidation resistance and etching profiles during exposure of the device between processing and during lithographical techniques.

***Prior Art Of Record***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Liu et al. (US 6,271,127) for a similar process wherein the first interlevel dielectric layer is treated to form a low k dielectric etch stop layer.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne A. Gurley whose telephone number is (703) 305-3474. The examiner can normally be reached on Monday-Friday from 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John F. Niebling, can be reached on (703) 308-3325. The fax phone number for the organization where this application or proceeding is assigned is 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0956.

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July 12, 2002

  
LYNNE GURLEY  
PATENT EXAMINER  
*Art Unit 2812*